(Spl.-H.C.A.S.,C.D.,78-e)

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF BOMBAY AT GOA
APPELLATE SIDE

WRIT PETITION NO. 642 OF 2003

Office Note, Office Memoranda of Quorum, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Shri S. D. Lotlikar, Senior Advocate with Shri A. D. Bhobe, Advocate for the petitioner.

Shri F. N. Tavora, advocate for the respondent.

CORAM : SMT. NISHITA MHATRE, J.

DATE : 9th January, 2004

P.C.:

The Order impugned in this petition denied the application of the petitioner for transfer of the suits pending in two different Courts before one Court, as the points in issue may be similar. Special Civil Suit No. 19/2002/SR/A is a suit filed for recovery of possession under Section 6 of the Specific Relief Act, which has been filed by the petitioner. Special Civil Suit No.85/2001/C has been filed by the respondent for specific performance of a contract and injunction. Since the parties in

both the suits are common and according to the petitioner common evidence would be led, the petitioner has made an application that both the suits should be amalgamated and tried by the same Court. The District Court has rejected this application and it is against this rejection that the petitioner has filed the present petition.

2. Having heard the learned advocates for the parties, I am of the view that no prejudice would be caused if both the suits are heard by one trial Judge. In fact, it would probably minimize the evidence which may be recorded. Whether the suits are to be amalgamated or not, would be considered by the trial Court once the suits are assigned to one Judge. Whether the evidence should be treated as common evidence also can be considered by the trial Judge.

3. In order to obviate multiplicity and prolixity of the litigation, it would be necessary to assign both the suits to one trial Judge. In view of this, Special Civil Suit No. 19/2002/SR/A is transferred from the file of Civil Judge, Senior Division, Mapusa 'A' Court to the file of Civil Judge, Senior Division, Mapusa 'C' Court.

Writ Petition disposed of accordingly.

SMT. NISHITA MHATRE, J.

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